

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN SENATE JUNE 11, 2012

AMENDED IN ASSEMBLY APRIL 18, 2012

AMENDED IN ASSEMBLY MARCH 27, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2247

Introduced by Assembly Member Bonnie Lowenthal

February 24, 2012

An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to public transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2247, as amended, Bonnie Lowenthal. Public transportation: offenses.

(1) Existing law provides that eating, drinking, or smoking in or on a system facility or vehicle in areas where those activities are prohibited, disturbing another person by loud or unreasonable noise, expectorating upon a system facility or vehicle, or skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or other device in a system facility, vehicle, or parking structure is an infraction for the first or 2nd violation, punishable by a fine not to exceed \$250 and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Specified public transportation agencies, including, but not limited to, the City and

County of San Francisco and the Los Angeles County Metropolitan Transportation Authority are authorized to enact and enforce ordinances providing that a person who is the subject of a citation for any of the acts described, such as fare evasion, on or in a facility or vehicle of the system for which the public transportation system has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding.

This bill would make the above penalties and administrative process applicable to the sale or peddling of any goods, merchandise, property, or services of any kind on the facilities, vehicles, or property of the public transportation system, if the public transportation system has prohibited those acts and neither the public transportation system or its duly authorized representative has granted written consent to engage in those acts. Because this bill would create a new crime, the bill would impose a state-mandated local program.

(2) Existing law provides for the issuance of a notice of fare evasion or passenger conduct violation in specified circumstances.

This bill would authorize the officer issuing a notice described above to correct any incorrect data on the notice.

(3) The bill would also make conforming changes.

(4) This bill would incorporate additional changes to Section 640 of the Penal Code and Section 99580 of the Public Utilities Code proposed by AB 492, to be operative only if AB 492 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

~~(4)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 640 of the Penal Code is amended to
2 read:

640. (a) (1) Any of the acts described in paragraphs (1) to (6), inclusive, of subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or second violation, is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. A third or subsequent violation of any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c) is a misdemeanor punishable by a fine of not more than four hundred dollars (\$400) or by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment. Any of the acts described in subdivision (d) shall be punishable by a fine of not more than four hundred dollars (\$400), by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment.

(2) This section shall apply only to acts committed on or in a facility or vehicle of a public transportation system.

(b) (1) Eating or drinking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(2) Disturbing another person by loud or unreasonable noise.

(3) Smoking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(4) Expectorating upon a system facility or vehicle.

(5) Skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or similar device, as defined in Section 407.5 of the Vehicle Code in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.

(6) Sale or peddling of any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or

1 property of the public transportation system , if the public
2 transportation system has prohibited those acts and neither the
3 public transportation system nor its duly authorized representatives
4 have granted written consent to engage in those acts.

5 (c) (1) Evasion of the payment of a fare of the system. For
6 purposes of this section, fare evasion includes entering an enclosed
7 area of a public transit facility beyond posted signs prohibiting
8 entrance without obtaining valid fare, in addition to entering a
9 transit vehicle without valid fare.

10 (2) Misuse of a transfer, pass, ticket, or token with the intent to
11 evade the payment of a fare.

12 (3) (A) Unauthorized use of a discount ticket or failure to
13 present, upon request from a transit system representative,
14 acceptable proof of eligibility to use a discount ticket, in
15 accordance with Section 99155 of the Public Utilities Code and
16 posted system identification policies when entering or exiting a
17 transit station or vehicle. Acceptable proof of eligibility must be
18 clearly defined in the posting.

19 (B) In the event that an eligible discount ticket user is not in
20 possession of acceptable proof at the time of request, any citation
21 issued shall be held for a period of 72 hours to allow the user to
22 produce acceptable proof. If the proof is provided, the citation
23 shall be voided. If the proof is not produced within that time period,
24 the citation shall be processed.

25 (d) (1) Willfully disturbing others on or in a system facility or
26 vehicle by engaging in boisterous or unruly behavior.

27 (2) Carrying an explosive, acid, or flammable liquid in a public
28 transit facility or vehicle.

29 (3) Urinating or defecating in a system facility or vehicle, except
30 in a lavatory. However, this paragraph shall not apply to a person
31 who cannot comply with this paragraph as a result of a disability,
32 age, or a medical condition.

33 (4) Willfully blocking the free movement of another person in
34 a system facility or vehicle. This paragraph shall not be interpreted
35 to affect any lawful activities permitted or First Amendment rights
36 protected under the laws of this state or applicable federal law,
37 including, but not limited to, laws related to collective bargaining,
38 labor relations, or labor disputes.

1 (5) Willfully tampering with, removing, displacing, injuring,
2 or destroying any part of any facility or vehicle of a public
3 transportation system.

4 (e) Notwithstanding subdivision (a), the City and County of San
5 Francisco, the Los Angeles County Metropolitan Transportation
6 Authority, the Southern California Regional Rail Authority, the
7 Santa Clara Valley Transportation Authority, the Sacramento
8 Regional Transit District, Long Beach Transit, Foothill Transit,
9 the North County Transit District, and the Alameda-Contra Costa
10 Transit District may enact and enforce an ordinance providing that
11 a person who is the subject of a citation for any of the acts
12 described in subdivision (b) of Section 99580 of the Public Utilities
13 Code on or in a facility or vehicle described in subdivision (a) for
14 which the City and County of San Francisco, the Los Angeles
15 County Metropolitan Transportation Authority, the Southern
16 California Regional Rail Authority, the Santa Clara Valley
17 Transportation Authority, the Sacramento Regional Transit District,
18 Long Beach Transit, Foothill Transit, the North County Transit
19 District, or the Alameda-Contra Costa Transit District has
20 jurisdiction shall, under the circumstances set forth by the
21 ordinance, be afforded an opportunity to complete an administrative
22 process that imposes only an administrative penalty enforced in a
23 civil proceeding. The ordinance for imposing and enforcing the
24 administrative penalty shall be governed by Chapter 8
25 (commencing with Section 99580) of Part 11 of Division 10 of
26 the Public Utilities Code and shall not apply to minors.

27 (f) For purposes of this section, a “facility or vehicle of a public
28 transportation system” means any of the following:

29 (1) A facility or vehicle of a public transportation system as
30 defined by Section 99211 of the Public Utilities Code.

31 (2) A facility of, or vehicle operated by any entity subsidized
32 by, the Department of Transportation.

33 (3) A facility or vehicle of the Southern California Regional
34 Rail Authority, whether owned or leased.

35 (4) A leased or rented facility or vehicle for which any of the
36 entities described in paragraph (1), (2), or (3) incurs costs of
37 cleanup, repair, or replacement as a result of any of those acts.

38 *SEC. 1.5. Section 640 of the Penal Code is amended to read:*

39 640. (a) (1) Any of the acts described in paragraphs (1) to ~~(5)~~
40 (6), inclusive, of subdivision (b) is an infraction punishable by a

1 fine not to exceed two hundred fifty dollars (\$250) and by
2 community service for a total time not to exceed 48 hours over a
3 period not to exceed 30 days, during a time other than during the
4 violator's hours of school attendance or employment. Any of the
5 acts described in paragraphs (1) to (3), inclusive, of subdivision
6 (c), upon a first or second violation, is an infraction punishable by
7 a fine not to exceed two hundred fifty dollars (\$250) and by
8 community service for a total time not to exceed 48 hours over a
9 period not to exceed 30 days, during a time other than during the
10 violator's hours of school attendance or employment. A third or
11 subsequent violation of any of the acts described in paragraphs (1)
12 to (3), inclusive, of subdivision (c) is a misdemeanor punishable
13 by a fine of not more than four hundred dollars (\$400) or by
14 imprisonment in a county jail for a period of not more than 90
15 days, or by both that fine and imprisonment. Any of the acts
16 described in subdivision (d) shall be punishable by a fine of not
17 more than four hundred dollars (\$400), by imprisonment in a
18 county jail for a period of not more than 90 days, or by both that
19 fine and imprisonment.

20 (2) This section shall apply only to acts committed on or in a
21 facility or vehicle of a public transportation system.

22 (b) (1) Eating or drinking in or on a system facility or vehicle
23 in areas where those activities are prohibited by that system.

24 (2) Disturbing another person by loud or unreasonable noise.

25 (3) Smoking in or on a system facility or vehicle in areas where
26 those activities are prohibited by that system.

27 (4) Expectorating upon a system facility or vehicle.

28 (5) Skateboarding, roller skating, bicycle riding, roller blading,
29 or operating a motorized scooter or similar device, as defined in
30 Section 407.5 of the Vehicle Code in a system facility, vehicle, or
31 parking structure. This paragraph does not apply to an activity that
32 is necessary for utilization of the transit facility by a bicyclist,
33 including, but not limited to, an activity that is necessary for
34 parking a bicycle or transporting a bicycle aboard a transit vehicle,
35 if that activity is conducted with the permission of the transit
36 agency in a manner that does not interfere with the safety of the
37 bicyclist or other patrons of the transit facility.

38 (6) *Sale or peddling of any goods, merchandise, property, or*
39 *services of any kind whatsoever on the facilities, vehicles, or*
40 *property of the public transportation system, if the public*

1 *transportation system has prohibited those acts and neither the*
2 *public transportation system nor its duly authorized representatives*
3 *have granted written consent to engage in those acts.*

4 (c) (1) Evasion of the payment of a fare of the system. For
5 purposes of this section, fare evasion includes entering an enclosed
6 area of a public transit facility beyond posted signs prohibiting
7 entrance without obtaining valid fare, in addition to entering a
8 transit vehicle without valid fare.

9 (2) Misuse of a transfer, pass, ticket, or token with the intent to
10 evade the payment of a fare.

11 (3) (A) Unauthorized use of a discount ticket or failure to
12 present, upon request from a transit system representative,
13 acceptable proof of eligibility to use a discount ticket, in
14 accordance with Section 99155 of the Public Utilities Code and
15 posted system identification policies when entering or exiting a
16 transit station or vehicle. Acceptable proof of eligibility must be
17 clearly defined in the posting.

18 (B) In the event that an eligible discount ticket user is not in
19 possession of acceptable proof at the time of request, any citation
20 issued shall be held for a period of 72 hours to allow the user to
21 produce acceptable proof. If the proof is provided, the citation
22 shall be voided. If the proof is not produced within that time period,
23 the citation shall be processed.

24 (d) (1) Willfully disturbing others on or in a system facility or
25 vehicle by engaging in boisterous or unruly behavior.

26 (2) Carrying an explosive, acid, or flammable liquid in a public
27 transit facility or vehicle.

28 (3) Urinating or defecating in a system facility or vehicle, except
29 in a lavatory. However, this paragraph shall not apply to a person
30 who cannot comply with this paragraph as a result of a disability,
31 age, or a medical condition.

32 (4) Willfully blocking the free movement of another person in
33 a system facility or vehicle. This paragraph shall not be interpreted
34 to affect any lawful activities permitted or First Amendment rights
35 protected under the laws of this state or applicable federal law,
36 including, but not limited to, laws related to collective bargaining,
37 labor relations, or labor disputes.

38 (5) Willfully tampering with, removing, displacing, injuring,
39 or destroying any part of any facility or vehicle of a public
40 transportation system.

(e) ~~Notwithstanding subdivision (a), the City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Southern California Regional Rail Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, the North County Transit District, and the Alameda-Contra Costa Transit District~~ a public transportation agency, as defined in paragraph (4) of subdivision (c) of Section 99580 of the Public Utilities Code, may enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) ~~or (e)~~ of Section 99580 of the Public Utilities Code on or in a facility or vehicle described in subdivision (a) for which the ~~City and County of San Francisco, the Los Angeles County Metropolitan Transportation Authority, the Southern California Regional Rail Authority, the Santa Clara Valley Transportation Authority, the Sacramento Regional Transit District, Long Beach Transit, Foothill Transit, the North County Transit District, or the Alameda-Contra Costa Transit District~~ public transportation agency has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code and shall not apply to minors.

(f) For purposes of this section, a “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by any entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of the Southern California Regional Rail Authority, whether owned or leased.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

SEC. 2. Section 99580 of the Public Utilities Code is amended to read:

1 99580. (a) Pursuant to subdivision (e) of Section 640 of the
2 Penal Code, the City and County of San Francisco, the Los Angeles
3 County Metropolitan Transportation Authority, the Southern
4 California Regional Rail Authority, the Santa Clara Valley
5 Transportation Authority, the Sacramento Regional Transit District,
6 Long Beach Transit, Foothill Transit, the North County Transit
7 District, and the Alameda-Contra Costa Transit District may enact
8 and enforce an ordinance to impose and enforce an administrative
9 penalty for any of the acts described in subdivision (b). The
10 ordinance shall include the provisions of this chapter and shall not
11 apply to minors.

12 (b) (1) Evasion of the payment of a fare of the system.

13 (2) Misuse of a transfer, pass, ticket, or token with the intent to
14 evade the payment of a fare.

15 (3) Playing sound equipment on or in a system facility or
16 vehicle.

17 (4) Smoking, eating, or drinking in or on a system facility or
18 vehicle in those areas where those activities are prohibited by that
19 system.

20 (5) Expecterating upon a system facility or vehicle.

21 (6) Willfully disturbing others on or in a system facility or
22 vehicle by engaging in boisterous or unruly behavior.

23 (7) Carrying an explosive or acid, flammable liquid, or toxic or
24 hazardous material in a system facility or vehicle.

25 (8) Urinating or defecating in a system facility or vehicle, except
26 in a lavatory. However, this paragraph shall not apply to a person
27 who cannot comply with this paragraph as a result of a disability,
28 age, or a medical condition.

29 (9) (A) Willfully blocking the free movement of another person
30 in a system facility or vehicle.

31 (B) This paragraph shall not be interpreted to affect any lawful
32 activities permitted or first amendment rights protected under the
33 laws of this state or applicable federal law, including, but not
34 limited to, laws related to collective bargaining, labor relations,
35 or labor disputes.

36 (10) Skateboarding, roller skating, bicycle riding, or roller
37 blading in a system facility, including a parking structure, or in a
38 system vehicle. This paragraph does not apply to an activity that
39 is necessary for utilization of a system facility by a bicyclist,
40 including, but not limited to, an activity that is necessary for

1 parking a bicycle or transporting a bicycle aboard a system vehicle,
2 if that activity is conducted with the permission of the agency of
3 the system in a manner that does not interfere with the safety of
4 the bicyclist or other patrons of the system facility.

5 (11) (A) Unauthorized use of a discount ticket or failure to
6 present, upon request from a system representative, acceptable
7 proof of eligibility to use a discount ticket, in accordance with
8 Section 99155, and posted system identification policies when
9 entering or exiting a system station or vehicle. Acceptable proof
10 of eligibility must be clearly defined in the posting.

11 (B) In the event that an eligible discount ticket user is not in
12 possession of acceptable proof at the time of request, an issued
13 notice of fare evasion or passenger conduct violation shall be held
14 for a period of 72 hours to allow the user to produce acceptable
15 proof. If the proof is provided, that notice shall be voided. If the
16 proof is not produced within that time period, that notice shall be
17 processed.

18 (12) Sale or peddling of any goods, merchandise, property, or
19 services of any kind whatsoever on the facilities, vehicles, or
20 property of the public transportation system without the express
21 written consent of the public transportation system or its duly
22 authorized representatives.

23 (c) (1) The City and County of San Francisco, the Los Angeles
24 County Metropolitan Transportation Authority, the Santa Clara
25 Valley Transportation Authority, the Sacramento Regional Transit
26 District, the Southern California Regional Rail Authority, Long
27 Beach Transit, Foothill Transit, the North County Transit District,
28 and the Alameda-Contra Costa Transit District may contract with
29 a private vendor or governmental agency for the processing of
30 notices of fare evasion or passenger conduct violation, and notices
31 of delinquent fare evasion or passenger conduct violation pursuant
32 to Section 99581.

33 (2) For the purpose of this chapter, “processing agency” means
34 either of the following:

35 (A) The agency issuing the notice of fare evasion or passenger
36 conduct violation and the notice of delinquent fare evasion or
37 passenger conduct violation.

38 (B) The party responsible for processing the notice of fare
39 evasion or passenger conduct violation and the notice of delinquent
40 violation, if a contract is entered into pursuant to paragraph (1).

1 (3) For the purpose of this chapter, “fare evasion or passenger
2 conduct violation penalty” includes, but is not limited to, a late
3 payment penalty, administrative fee, fine, assessment, and costs
4 of collection as provided for in the ordinance.

5 (4) All fare evasion and passenger conduct violation penalties
6 collected by the processing agency in the City and County of San
7 Francisco shall be deposited to the general fund of the City and
8 County of San Francisco.

9 (5) All fare evasion and passenger conduct violation penalties
10 collected by Long Beach Transit or Foothill Transit shall be
11 deposited in the general fund of the County of Los Angeles.

12 (6) All fare evasion and passenger conduct violation penalties
13 collected by the Los Angeles County Metropolitan Transportation
14 Authority shall be deposited in the general fund of the county in
15 which the citation is administered.

16 (7) All fare evasion and passenger conduct violation penalties
17 collected by the Santa Clara Valley Transportation Authority shall
18 be deposited in the general fund of the County of Santa Clara.

19 (8) All fare evasion and passenger conduct violation penalties
20 collected by the Sacramento Regional Transit District shall be
21 deposited in the general fund of the County of Sacramento.

22 (9) All fare evasion and passenger conduct violation penalties
23 collected by the Alameda-Contra Costa Transit District shall be
24 deposited in the general fund of the county in which the citation
25 is administered.

26 (10) All fare evasion and passenger conduct violation penalties
27 collected by the Southern California Regional Rail Authority shall
28 be deposited in the general fund of the county in which the citation
29 is administered.

30 (11) All fare evasion and passenger conduct violation penalties
31 collected by the North County Transit District shall be deposited
32 in the general fund of the County of San Diego.

33 (d) (1) If a fare evasion or passenger conduct violation is
34 observed by a person authorized to enforce the ordinance, a notice
35 of fare evasion or passenger conduct violation shall be issued. The
36 notice shall set forth the violation, including reference to the
37 ordinance setting forth the administrative penalty, the date of the
38 violation, the approximate time, and the location where the
39 violation occurred. The notice shall include a printed statement
40 indicating the date payment is required to be made, and the

1 procedure for contesting the notice. The notice shall be served by
2 personal service upon the violator. The notice, or copy of the
3 notice, shall be considered a record kept in the ordinary course of
4 business of the issuing agency and the processing agency, and
5 shall be prima facie evidence of the facts contained in the notice
6 establishing a rebuttable presumption affecting the burden of
7 producing evidence.

8 (2) When a notice of fare evasion or passenger conduct violation
9 has been served, the person issuing the notice shall file the notice
10 with the processing agency.

11 (3) If, after a notice of fare evasion or passenger conduct
12 violation is issued pursuant to this section, the issuing officer
13 determines that there is incorrect data on the notice, including, but
14 not limited to, the date or time, the issuing officer may indicate in
15 writing on a form attached to the original notice the necessary
16 correction to allow for the timely entry of the corrected notice on
17 the processing agency's data system. A copy of the correction shall
18 be mailed to the address provided by the person cited at the time
19 the original notice of fare evasion or passenger conduct violation
20 was served.

21 (4) If a person contests a notice of fare evasion or passenger
22 conduct violation, the issuing agency shall proceed in accordance
23 with Section 99581.

24 (e) In setting the amounts of administrative penalties for the
25 violations listed in subdivision (b), the City and County of San
26 Francisco, the Los Angeles County Metropolitan Transportation
27 Authority, the Santa Clara Valley Transportation Authority, the
28 Sacramento Regional Transit District, the Southern California
29 Regional Rail Authority, Long Beach Transit, Foothill Transit, the
30 North County Transit District, and the Alameda-Contra Costa
31 Transit District shall not establish penalty amounts that exceed the
32 maximum fine amount set forth in Section 640 of the Penal Code.

33 (f) A person who receives a notice of fare evasion or passenger
34 conduct violation pursuant to this section shall not be subject to
35 citation for a violation of Section 640 of the Penal Code.

36 (g) If an entity enacts an ordinance pursuant to this section it
37 shall, both two years and five years after enactment of the
38 ordinance, report all of the following information to the Senate
39 Committee on Transportation and Housing and the Assembly
40 Committee on Transportation:

1 (1) A description of the ordinance, including the circumstances
2 under which an alleged violator is afforded the opportunity to
3 complete the administrative process.

4 (2) The amount of the administrative penalties.

5 (3) The number and types of citations administered pursuant to
6 the ordinance.

7 (4) To the extent available, a comparison of the number and
8 types of citations administered pursuant to the ordinance with the
9 number and types of citations issued for similar offenses and
10 administered through the courts both in the two years prior to the
11 ordinance and, if any, since enactment of the ordinance.

12 (5) A discussion of the effect of the ordinance on passenger
13 behavior.

14 (6) A discussion of the effect of the ordinance on revenues to
15 the entity described in subdivision (a) and, in consultation with
16 the superior courts, the cost savings to the county courts. The
17 superior courts are encouraged to collaborate on and provide data
18 for this report.

19 *SEC. 2.5. Section 99580 of the Public Utilities Code is amended*
20 *to read:*

21 99580. (a) Pursuant to ~~paragraph (1) of subdivision (e) of~~
22 ~~Section 640 of the Penal Code, the City and County of San~~
23 ~~Francisco, the Los Angeles County Metropolitan Transportation~~
24 ~~Authority, the Southern California Regional Rail Authority, the~~
25 ~~Santa Clara Valley Transportation Authority, the Sacramento~~
26 ~~Regional Transit District, Long Beach Transit, Foothill Transit,~~
27 ~~the North County Transit District, and the Alameda-Contra Costa~~
28 ~~Transit District~~ *a public transportation agency* may enact and
29 enforce an ordinance to impose and enforce an administrative
30 penalty for any of the acts described in subdivision (b). The
31 ordinance shall include the provisions of this chapter and shall not
32 apply to minors.

33 (b) (1) Evasion of the payment of a fare of the system.

34 (2) Misuse of a transfer, pass, ticket, or token with the intent to
35 evade the payment of a fare.

36 (3) Playing sound equipment on or in a system facility or
37 vehicle.

38 (4) Smoking, eating, or drinking in or on a system facility or
39 vehicle in those areas where those activities are prohibited by that
40 system.

1 (5) Expectorating upon a system facility or vehicle.

2 (6) Willfully disturbing others on or in a system facility or
3 vehicle by engaging in boisterous or unruly behavior.

4 (7) Carrying an explosive or acid, flammable liquid, or toxic or
5 hazardous material in a system facility or vehicle.

6 (8) Urinating or defecating in a system facility or vehicle, except
7 in a lavatory. However, this paragraph shall not apply to a person
8 who cannot comply with this paragraph as a result of a disability,
9 age, or a medical condition.

10 (9) (A) Willfully blocking the free movement of another person
11 in a system facility or vehicle.

12 (B) This paragraph shall not be interpreted to affect any lawful
13 activities permitted or first amendment rights protected under the
14 laws of this state or applicable federal law, including, but not
15 limited to, laws related to collective bargaining, labor relations,
16 or labor disputes.

17 (10) Skateboarding, roller skating, bicycle riding, or roller
18 blading in a system facility, including a parking structure, or in a
19 system vehicle. This paragraph does not apply to an activity that
20 is necessary for utilization of a system facility by a bicyclist,
21 including, but not limited to, an activity that is necessary for
22 parking a bicycle or transporting a bicycle aboard a system vehicle,
23 if that activity is conducted with the permission of the agency of
24 the system in a manner that does not interfere with the safety of
25 the bicyclist or other patrons of the system facility.

26 (11) (A) Unauthorized use of a discount ticket or failure to
27 present, upon request from a system representative, acceptable
28 proof of eligibility to use a discount ticket, in accordance with
29 Section 99155, and posted system identification policies when
30 entering or exiting a system station or vehicle. Acceptable proof
31 of eligibility must be clearly defined in the posting.

32 (B) In the event that an eligible discount ticket user is not in
33 possession of acceptable proof at the time of request, an issued
34 notice of fare evasion or passenger conduct violation shall be held
35 for a period of 72 hours to allow the user to produce acceptable
36 proof. If the proof is provided, that notice shall be voided. If the
37 proof is not produced within that time period, that notice shall be
38 processed.

39 (12) *Sale or peddling of any goods, merchandise, property, or*
40 *services of any kind whatsoever on the facilities, vehicles, or*

1 *property of the public transportation system without the express*
2 *written consent of the public transportation system or its duly*
3 *authorized representatives.*

4 ~~(c) (1) The City and County of San Francisco, the Los Angeles~~
5 ~~County Metropolitan Transportation Authority, the Santa Clara~~
6 ~~Valley Transportation Authority, the Sacramento Regional Transit~~
7 ~~District, the Southern California Regional Rail Authority, Long~~
8 ~~Beach Transit, Foothill Transit, the North County Transit District,~~
9 ~~and the Alameda-Contra Costa Transit District~~ *public*
10 *transportation agency* may contract with a private vendor or
11 governmental agency for the processing of notices of fare evasion
12 or passenger conduct violation, and notices of delinquent fare
13 evasion or passenger conduct violation pursuant to Section 99581.

14 (2) For the purpose of this chapter, “processing agency” means
15 either of the following:

16 (A) The agency issuing the notice of fare evasion or passenger
17 conduct violation and the notice of delinquent fare evasion or
18 passenger conduct violation.

19 (B) The party responsible for processing the notice of fare
20 evasion or passenger conduct violation and the notice of delinquent
21 violation, if a contract is entered into pursuant to paragraph (1).

22 (3) For the purpose of this chapter, “fare evasion or passenger
23 conduct violation penalty” includes, but is not limited to, a late
24 payment penalty, administrative fee, fine, assessment, and costs
25 of collection as provided for in the ordinance.

26 ~~(4) All fare evasion and passenger conduct violation penalties~~
27 ~~collected by the processing agency in the City and County of San~~
28 ~~Francisco shall be deposited to the general fund of the City and~~
29 ~~County of San Francisco.~~

30 *(4) For the purpose of this chapter, “public transportation*
31 *agency” shall mean a public agency that provides public*
32 *transportation as defined in paragraph (1) of subdivision (f) of*
33 *Section 1 of Article XIXA of the California Constitution.*

34 (5) All fare evasion and passenger conduct violation penalties
35 collected by the Long Beach Transit or Foothill Transit pursuant
36 to this chapter shall be deposited in the general fund of the County
37 of Los Angeles. *county in which the citation is administered.*

38 ~~(6) All fare evasion and passenger conduct violation penalties~~
39 ~~collected by the Los Angeles County Metropolitan Transportation~~

1 Authority shall be deposited in the general fund of the county in
2 which the citation is administered.

3 ~~(7) All fare evasion and passenger conduct violation penalties~~
4 ~~collected by the Santa Clara Valley Transportation Authority shall~~
5 ~~be deposited in the general fund of the County of Santa Clara.~~

6 ~~(8) All fare evasion and passenger conduct violation penalties~~
7 ~~collected by the Sacramento Regional Transit District shall be~~
8 ~~deposited in the general fund of the County of Sacramento.~~

9 ~~(9) All fare evasion and passenger conduct violation penalties~~
10 ~~collected by the Alameda-Contra Costa Transit District shall be~~
11 ~~deposited in the general fund of the county in which the citation~~
12 ~~is administered.~~

13 ~~(10) All fare evasion and passenger conduct violation penalties~~
14 ~~collected by the Southern California Regional Rail Authority shall~~
15 ~~be deposited in the general fund of the county in which the citation~~
16 ~~is administered.~~

17 ~~(11) All fare evasion and passenger conduct violation penalties~~
18 ~~collected by the North County Transit District shall be deposited~~
19 ~~in the general fund of the County of San Diego.~~

20 (d) (1) If a fare evasion or passenger conduct violation is
21 observed by a person authorized to enforce the ordinance, a notice
22 of fare evasion or passenger conduct violation shall be issued. The
23 notice shall set forth the violation, including reference to the
24 ordinance setting forth the administrative penalty, the date of the
25 violation, the approximate time, and the location where the
26 violation occurred. The notice shall include a printed statement
27 indicating the date payment is required to be made, and the
28 procedure for contesting the notice. The notice shall be served by
29 personal service upon the violator. The notice, or copy of the
30 notice, shall be considered a record kept in the ordinary course of
31 business of the issuing agency and the processing agency, and
32 shall be prima facie evidence of the facts contained in the notice
33 establishing a rebuttable presumption affecting the burden of
34 producing evidence.

35 (2) When a notice of fare evasion or passenger conduct violation
36 has been served, the person issuing the notice shall file the notice
37 with the processing agency.

38 (3) *If, after a notice of fare evasion or passenger conduct*
39 *violation is issued pursuant to this section, the issuing officer*
40 *determines that there is incorrect data on the notice, including,*

1 *but not limited to, the date or time, the issuing officer may indicate*
2 *in writing on a form attached to the original notice the necessary*
3 *correction to allow for the timely entry of the corrected notice on*
4 *the processing agency's data system. A copy of the correction shall*
5 *be mailed to the address provided by the person cited at the time*
6 *the original notice of fare evasion or passenger conduct violation*
7 *was served.*

8 (3)

9 (4) If a person contests a notice of fare evasion or passenger
10 conduct violation, the issuing agency shall proceed in accordance
11 with Section 99581.

12 (e) In setting the amounts of administrative penalties for the
13 violations listed in subdivision (b), ~~the City and County of San~~
14 ~~Francisco, the Los Angeles County Metropolitan Transportation~~
15 ~~Authority, the Santa Clara Valley Transportation Authority, the~~
16 ~~Sacramento Regional Transit District, the Southern California~~
17 ~~Regional Rail Authority, Long Beach Transit, Foothill Transit, the~~
18 ~~North County Transit District, and the Alameda-Contra Costa~~
19 ~~Transit District~~ *public transportation agency* shall not establish
20 penalty amounts that exceed the maximum fine amount set forth
21 in Section 640 of the Penal Code.

22 (f) A person who receives a notice of fare evasion or passenger
23 conduct violation pursuant to this section shall not be subject to
24 citation for a violation of Section 640 of the Penal Code.

25 (g) If an entity enacts an ordinance pursuant to this section it
26 shall, both two years and five years after enactment of the
27 ordinance, report all of the following information to the Senate
28 Committee on Transportation and Housing and the Assembly
29 Committee on Transportation:

30 (1) A description of the ordinance, including the circumstances
31 under which an alleged violator is afforded the opportunity to
32 complete the administrative process.

33 (2) The amount of the administrative penalties.

34 (3) The number and types of citations administered pursuant to
35 the ordinance.

36 (4) To the extent available, a comparison of the number and
37 types of citations administered pursuant to the ordinance with the
38 number and types of citations issued for similar offenses and
39 administered through the courts both in the two years prior to the
40 ordinance and, if any, since enactment of the ordinance.

1 (5) A discussion of the effect of the ordinance on passenger
2 behavior.

3 (6) A discussion of the effect of the ordinance on revenues to
4 the entity described in subdivision (a) and, in consultation with
5 the superior courts, the cost savings to the county courts. The
6 superior courts are encouraged to collaborate on and provide data
7 for this report.

8 *SEC. 3. Section 1.5 of this bill incorporates amendments to*
9 *Section 640 of the Penal Code proposed by both this bill and*
10 *Assembly Bill 492. It shall only become operative if (1) both bills*
11 *are enacted and become effective on or before January 1, 2013,*
12 *(2) each bill amends Section 640 of the Penal Code, and (3) this*
13 *bill is enacted after Assembly Bill 492, in which case Section 1 of*
14 *this bill shall not become operative.*

15 *SEC. 4. Section 2.5 of this bill incorporates amendments to*
16 *Section 99580 of the Public Utilities Code proposed by both this*
17 *bill and Assembly Bill 492. It shall only become operative if (1)*
18 *both bills are enacted and become effective on or before January*
19 *1, 2013, (2) each bill amends Section 99580 of the Public Utilities*
20 *Code, and (3) this bill is enacted after Assembly Bill 492, in which*
21 *case Section 2 of this bill shall not become operative.*

22 ~~SEC. 3.~~

23 *SEC. 5. No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section 17556 of*
29 *the Government Code, or changes the definition of a crime within*
30 *the meaning of Section 6 of Article XIII B of the California*
31 *Constitution.*